



Administration Department

October 5, 2011

Lt. Eric Sortland
3016 N. Narrows Drive
#A105
Tacoma, WA 98407

Re: Notice of Disciplinary Action

Dear Lt. Sortland:

On September 28, 2011, you were the subject of a predisciplinary hearing as noticed and conducted pursuant to Enumclaw Police Department Policies and Procedures section 3.1.8 and the City of Enumclaw Civil Service Rules section 18. In addition to you, those in attendance at the meeting included me, City Attorney Mike Reynolds, and your legal counsel, Brett Purtzer. During the course of the meeting, conducted from approximately 2:30 p.m. to 3:15 p.m., you were provided an opportunity to address the contents of the recent Auburn Police Department investigation into the assault charges filed by you against Police Chief Jim Zoll. You were also given an opportunity to address the City's insubordination claim against you.

Copies of the Auburn Police Report and Auburn City Attorney's decision were provided to you and your attorney as attachments to the Notice of Predisciplinary Hearing.

NOTICE OF DISCIPLINARY ACTION

Pursuant to Policies and Procedures section 3.1.9 and Rules Section 18.03.04, you are hereby given written notice of disciplinary action. Due to your complaint and actions against Chief Zoll, I, as City Administrator, am handling this action.

STATEMENT OF EVIDENCE

In accordance with Policies and Procedures section 3.1.9 and Rules section 18.03.04, the City "shall include the charges against the employee and a general statement of the evidence supporting the charges." Based on the evidence and information obtained, the statement of evidence is as follows:

It appears to me that the facts are as follows: You are in charge of the property room and funds used for under cover drug purchases. During a surprise state audit on August 2, 2011, a state auditor met with you and found that a cash money box and ledger associated with drug purchase money fund were missing. You were unable to find them at that time. You did not inform the Chief that the money box and ledger were missing.

Chief Zoll learned of the missing money box and ledger from the state auditor on August 3, 2011. Chief Zoll wrote an e-mail to you notifying you that he had become aware the money box and ledger were missing and asked why this was brought to his attention by a state auditor and not by you. Chief Zoll's e-mail also directed you to provide in writing a full account as to the location of where the funds should have been kept, the locations you searched, and where the items are were ultimately found.

On August 4, 2011, you spoke to Chief Zoll and told him that the money box was found and "was all taken care of." Chief Zoll commented that it was good that the money box was found but told you that you should have personally informed him about the fact that the money box was missing.

Shortly thereafter, Chief Zoll was in Lt. Heubler's office when you walked in and started talking about the audit and money box again. Chief Zoll told you that you need to be doing annual self-audits of the property room and commented that he had not seen any recent annual internal audits from you. You claimed that Chief Zoll had told you not to do them any more. Chief Zoll said that was not true and you argued with him about this. Chief Zoll told you he was not going to argue about it any longer, that he had given his directions and the discussion was over, but you continued to argue with him. You raised the level of your voice to the Chief. The Chief attempted to leave the room to discontinue the argument. You were standing in a small gap between a desk and a conference table between Chief Zoll and the normal entry/exit to the office. Chief Zoll directed you to get out of his way. You remained standing where you were and did not move. You blocked the Chief's path to the normal exit. Chief Zoll tried to squeeze by you through the narrow area and left the office. You claimed that Chief Zoll touched you while leaving, that this touching constituted an assault, and that you wanted to file assault charges against the Chief.

This was not the first time you have engaged in this kind of behavior. Previously, in Chief Zoll's own office, you tried to argue with Chief Zoll and stood in the Chief's way when he tried to leave his own office to end the conversation with you.

It appears that you have engaged in insubordinate behavior and violated the following City of Enumclaw Police Department Policies and Procedures:

Enumclaw Police Dept. Policies and Procedures

1.2.2 Obedience to Orders. Members of the Department shall obey any lawful order from any superior . . .

1.2.7 Addressing Superiors. All personnel shall accord respect to superior officers at all times. When addressing superior officers, personnel shall observe a respectful attitude . . .

1.2.8 Courtesy. Members and employees shall at all times conduct themselves in an orderly, courteous manner, both toward the public and toward other Department personnel. Superior officers shall at all times be given the respect and obedience their rank deserves . . .

1.7 Code of Ethics. I will be exemplary in obeying the laws of the land and the regulations of my department. . . . I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence by decisions.

4.16 Compliance with Orders. Members will promptly obey any lawful order of a superior officer, including any order relayed from a superior by a member of the same or lesser rank. Any member who refuses to obey a lawful order will be considered insubordinate and will be subject to disciplinary action.

4.16.7 Employee Misconduct. The duties by this agency are vital to the safety and well-being of this community. Because of the importance of these duties, it is essential that the Department set and maintain high standards of conduct among its personnel. Misconduct by members will not be tolerated because it weakens the Department's effectiveness, erodes public trust, and can endanger members of the public or members of this Department. The following sections describe behavior which is regarded as misconduct. Such behavior will be grounds for disciplinary action whenever it is brought to the attention to the Department.

4.16.8 Unbecoming Conduct. Members shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. Conduct unbecoming a member shall include that which brings the Department into disrepute reflects discredit upon the member, or that which impairs the operation or efficiency of the Department or member.

4.16.10 Prompt Response to Orders. Members are expected to obey orders from ranking personnel as promptly and completely as possible. Failure to obey orders promptly will be considered neglect of duty. . . .

5.1 Command of the Police Department. The Police Chief exercises command over all members within the Police Department.

It appears that there is cause for disciplinary action pursuant to Enumclaw Police Department Policies and Procedures Section 3.1 and the City of Enumclaw Civil Services Rules Section 17. The following Enumclaw Civil Service Rules, in particular, appear to be applicable:

17.05 DISCIPLINE – CAUSE – ILLUSTRATED. The following are declared to illustrate adequate causes for discipline; discipline may be made for any other cause:

17.05.02 Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, any other act of omission or Commission tending to injure the public service, or any other willful failure on the part of the employee to properly conduct himself.

17.05.08 Willful or intentional violation of any lawful and reasonable regulation, order or direction made or given by a superior officer;

17.05.09 Willful or intentional violation of any provision of these rules.

17.05.10 Any other cause, act or failure to act which, under law or these Rules, or the judgment of the Commission, is grounds for or warrants dismissal, discharge, removal or separation from the service, demotion, suspension, forfeiture of service credit, deprivation of privileges or other disciplinary action.

DISCIPLINARY ACTION

This is not the first time I have proposed disciplinary action against you for insubordinate behavior towards Chief Zoll. By letter of June 7, 2011, I gave notice of my decision to suspend you without pay for 10 days for conduct which included being disrespectful to Chief Zoll, attempting to undermine his authority, calling him a coward, liar and a cancer, and generally failing to observe a respectful manner toward him. My decision should have made it clear that you needed to correct your behavior towards Chief Zoll.

During the course of the Predisciplinary hearing you did not provide any evidence either written or oral that put into question the evidence provided by the City.

In light of the seriousness of the insubordinate conduct toward Chief Zoll, its detrimental effect on the operation of the Enumclaw Police Department, and the fact that such conduct appears to be continuing despite previous lower levels of discipline, I find it necessary to TERMINATE your employment effective October 31, 2011.

APPEAL PROCESS

The decision to terminate is appealable to the Enumclaw Civil Service Commission. A notice of appeal must be timely filed in ten (10) days with the Secretary of the Civil Service Commission.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Thomas", with a long horizontal flourish extending to the right.

Michael Thomas
City Administrator

cc: Mike Reynolds, City Attorney
Brett Purtzer, Hester Law Group, Inc., P.S.